

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

City of Calipatria  
125 North Park Avenue  
Calipatria, CA 92233

Respondent.

Docket No. SCUPA 2011 IM001

CONSENT ORDER

Health and Safety Code  
Section 25187

INTRODUCTION

The State Department of Toxic Substances Control acting as the Imperial County Certified Unified Program Agency (Department) and the City of Calipatria (Respondent) enter into this Consent Order and agree as follows:

1. Site. Respondent generated, handled, and stored hazardous waste at the Calipatria City Maintenance Yard (Site).
2. Inspection. The Department inspected the Calipatria Airport and the Site on April 28, 2008 and May 14, 2008.
3. Jurisdiction. Sections 25187 and 25404.1.1 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

4. Violations Alleged. The Department alleges the following violations:

4.1 The Respondent violated California Code of Regulations, title 22, section 66262.12 in that on or about April 28, 2008, the Respondent did not have an EPA ID Number, yet the Respondent did offer for transportation hazardous waste from the Calipatria Airport to the Site.

4.2 The Respondent violated California Code of Regulations, title 22, section 66262.11 in that on or about April 28, 2008, the Respondent did not properly characterize waste streams at the Calipatria Airport including those that were removed to the Site, as hazardous. These included: approximately one container (10 pounds) of un-empty aerosol cans, one drum (200 pounds) of RCRA waste paint material, one drum (50 gallons) of non-RCRA oily liquid, two containers (800 pounds) of non-RCRA dried paint materials, one container (250 pounds) of non-RCRA oily debris, and six drums (1800 pounds) of non-RCRA organic solids hazardous waste.

4.3 The Respondent violated California Health and Safety Code section 25160 (d)(1) in that on or about April 28, 2008, the Respondent transported approximately one container (10 pounds) of un-empty aerosol cans, one drum (200 pounds) of RCRA waste paint material, one drum (50 gallons) of non-RCRA oily liquid, two containers (800 pounds) of non-RCRA dried paint materials, one container (250 pounds) of non-RCRA oily debris, and six drums (1800 pounds) of non-RCRA organic solids hazardous waste, from the Calipatria Airport to the Site without a hazardous waste manifest.

4.4 The Respondent violated California Code of Regulations, title 22, section 66263.23 (b) in that on or about April 28, 2008, the City transported approximately one container (10 pounds) of un-empty aerosol cans, one drum (200 pounds) of RCRA waste paint material, one drum (50 gallons) of non-RCRA oily liquid, two containers (800 pounds) of non-RCRA dried paint materials, one container (250 pounds) of non-RCRA oily debris, and six drums (1800 pounds) of non-RCRA organic solids hazardous waste, from the Calipatria Airport to the Site, a location without a Hazardous Waste Facilities Permit or other authorization issued by the DTSC.

4.5 The Respondent violated California Health and Safety Code section 25201 in that beginning on or about April 28, 2008, at the Site, the Respondent was storing approximately one container (10 pounds) of un-empty aerosol cans, one drum (200 pounds) of RCRA waste paint material, one drum (50 gallons) of non-RCRA oily liquid, two containers (800 pounds) of non-RCRA dried paint materials, one container (250 pounds) of non-RCRA oily debris, and six drums (1800 pounds) of non-RCRA organic solids hazardous waste without a storage permit, after they had transported the waste from the Calipatria Airport.

4.6 The Respondent violated California Health and Safety Code section 25201 in that on or about April 28, 2008, at the Calipatria Airport, the Respondent was storing approximately one container (10 pounds) of un-empty aerosol cans, one drum (200 pounds) of RCRA waste paint material, one drum (50 gallons) of non-RCRA oily liquid, two containers (800 pounds) of non-RCRA dried paint

materials, one container (250 pounds) on non-RCRA oily debris, and six drums (1800 pounds) of non-RCRA organic solids hazardous waste without a storage permit.

4.7 The Respondent violated California Health and Safety Code section 25201, in that on or about April 28, 2008, the Respondent had disposed of a hazardous waste - DDT/DDE - at an unauthorized location. The unauthorized disposal occurred when, at an unknown point in the past, the DDT/DDE was disposed into the soil.

4.8 The Respondent violated California Health and Safety Code section 25201, in that on or about April 28, 2008, the Respondent had disposed of a hazardous waste - DDT/DDE - at an unauthorized location. The unauthorized disposal occurred when, at an unknown point in the past, the DDT/DDE was disposed into the soil.

4.9 The Respondent violated California Health and Safety Code 25201, in that on or about April 28, 2008, the Respondent had disposed of a hazardous waste at an unauthorized location – the sump at the northeast corner of the Calipatria Airport hangar. The unauthorized disposal occurred when, at an unknown point in the past, liquids which failed toxicity testing, were discharged to the sump, and abandoned.

4.10 The Respondent violated California Health and Safety Code 25201, in that on or about April 28, 2008, the Respondent had disposed of a hazardous

waste at an unauthorized location. The unauthorized disposal occurred when, at an unknown point in the past, plastic bags of unidentified chemicals were abandoned on wooden pallets west of the Calipatria Airport hangar. The contents of the bags failed toxicity testing, and were spilling to the ground.

4.11 The Respondent violated California Health and Safety Code 25201, in that on or about April 28, 2008, the Respondent had disposed of a hazardous waste – used oil - at an unauthorized location. The unauthorized disposal occurred when, at an unknown point in the past, the used oil was released to the soil at the Calipatria Airport, and abandoned.

4.12 The Respondent violated California Health and Safety Code section 25160 (b)(1) in that on or about April 28, 2008, the Respondent transported approximately one container (10 pounds) of un-empty aerosol cans, one drum (200 pounds) of RCRA waste paint material, one drum (50 gallons) of non-RCRA oily liquid, two containers (800 pounds) of non-RCRA dried paint materials, one container (250 pounds) of non-RCRA oily debris, and six drums (1800 pounds) of non-RCRA organic solids hazardous waste, from the Calipatria Airport to the City Yard without first completing a hazardous waste manifest.

5. Dispute. A dispute exists regarding the alleged violations.

6. Consent. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

7. Hearing. Respondent waives any right to a hearing in this matter.

8. Full Settlement. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. Admissions. Respondent admits the violations as described in this Order.

#### SCHEDULE FOR COMPLIANCE

10. Respondent has corrected all violations cited in paragraphs 4.1 – 4.12.

#### PAYMENTS

11. Respondent agrees to pay to the Department for the penalty violations a total of \$20,000 plus interest on the following payment schedule:

- a) One (1) payment of \$5,000.00 on or before October 1, 2011.
- b) One (1) payment of \$5,000.00 on or before January 1, 2012.
- c) One (1) payment of \$5,000.00 on or before April 1, 2012.
- d) One (1) payment of \$5,000.00 on or before July 1, 2012.

11.1 Respondent's check (s) shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check (s) shall be sent:

To: Ryan M. Atencio  
Senior Hazardous Substances Scientist  
DTSC Imperial CUPA  
627 Wake Avenue  
El Centro, California 92243

To: Richard E. Driscoll  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, 23rd floor MS-23A  
P. O. Box 806  
Sacramento, California 95812-0806

11.2. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

#### OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees,

contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

12.7. Severability. If any portion of this Agreement is ultimately determined not to be enforceable, that portion will be severed from the Agreement and the severability shall not affect the enforceability of the remaining provisions of the Agreement. This agreement may be executed in counterparts.

Dated: August 10, 2011      Original signed by Romualdo J. Medina

Mr. Romualdo J. Medina, City Manager  
City of Calipatria

Dated: August 16, 2011      Original signed by Roberto Kou

Roberto Kou, Acting Performance Manager  
Enforcement & Emergency Response Program  
Chatsworth and Cypress Office